

# EXHIBIT 9

KIND LAW  
8860 South Maryland Parkway, Suite 106  
Las Vegas, Nevada 89123

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

PAUL TUTTOBENE,  
Plaintiff,

Case No.:

vs.

2:19-cv-01999-APG-NJK

TRANSUNION, LLC, et al.,  
Defendants.

\_\_\_\_\_/

CONFIDENTIAL/SUBJECT TO PROTECTIVE ORDER  
VIRTUAL ZOOM/TELEPHONIC  
FRCP 30(b)(6) DEPOSITION OF TRANSUNION, LLC,  
REPRESENTED BY NIKISHA KIMP  
Thursday, August 27, 2020  
Philadelphia, Pennsylvania

Reported by:  
Michelle C. Johnson, RPR-CRR  
NV CCR 771, CA CSR 5962  
Job No. 4231509  
Pages 1 - 301

Page 1

1 BE IT REMEMBERED that, pursuant to the laws  
2 governing the taking and use of depositions remotely,  
3 and on Thursday, August 27, 2020, commencing  
4 at 1:05p.m. EDT thereof, in Philadelphia, Pennsylvania,  
5 by way of virtual Zoom/telephonic appearance, before  
6 me, MICHELLE C. JOHNSON, a Certified Court Reporter in  
7 the States of Nevada and California, virtually  
8 appeared NIKISHA KIMP, called as a witness by the  
9 Plaintiff.

10 VIRTUAL ZOOM/TELEPHONIC APPEARANCES:

11 For the Plaintiff:

12 MICHAEL KIND  
13 Attorney at Law  
14 KIND LAW  
15 8860 South Maryland Parkway  
16 Suite 106  
17 Las Vegas, Nevada 89123  
18 702.337.2322  
19 mk@kindlaw.com

20 For Defendant TransUnion, LLC:

21 JUSTIN SAULS  
22 AMANDA P. LOUGHMILLER  
23 Attorneys at Law  
24 QUILLING, SELANDER, LOWNDS, WINSLETT & MOSER, PC  
25 6900 North Dallas Parkway  
Suite 800  
Plano, Texas 75024  
214.871.2100  
jsauls@qslwm.com  
aloughmiller@qslwm.com

INDEX

WITNESS

NIKISHA KIMP

PAGE

Examination by Mr. Kind 5

Examination by Mr. Sauls 255

EXHIBITS

NUMBER

PAGE

PLAINTIFF'S

Exhibit 1 Second amended deposition notice 151

Exhibit 2 Annual Credit Report Request Form, 151  
with attachments (TU 1-147)

Exhibit 3 4/2/2019 Documents Acceptable for 227  
Maintenance (TU 148-174)

Exhibit 4 6/21/2019 Consumer Disputes 236  
(CONFIDENTIAL TU 175-231)

Exhibit 5 2/2012 TransUnion Data Furnishers 241  
Reporting Agreement  
(CONFIDENTIAL 276-286)

Exhibit 6 6/11/2019 Certified Mail Labels.com 243  
Receipt (Tuttobene - Plaintiff's 25)

Exhibit 7 8/13/2019 Certified Mail Labels.com 243  
Receipt (Tuttobene - Plaintiff's 26)

Exhibit 8 2/24/2020 TransUnion credit report 243  
(12 pages)

TRANSUNION

Exhibit Def 1 4/2/2019 and 6/21/2019 Documents 256  
Acceptable for Maintenance  
(CONFIDENTIAL TU 148-231)

EXHIBITS  
(CONTINUED)

NUMBER		PAGE
TRANSUNION		
<u>Exhibit Def 2</u>	Annual Credit Report Request Form, with attachments (TU 1-147)	256
<u>Exhibit Def 3</u>	4/10/2018 Consumer Disputes (CONFIDENTIAL TU 232-286)	257
<u>Exhibit Def 4</u>	AUD from New American Funding (TU 287)	257

INFORMATION TO BE SUPPLIED  
(None)

INSTRUCTIONS NOT TO ANSWER

	PAGE	LINE
1)	35	12
2)	123	16
3)	249	12

1 (Due to the need for this deposition to take  
2 place remotely, the parties stipulated that the court  
3 reporter may swear in the witness over the  
4 phone/virtual videoconference and that the witness has  
5 verified that she is in fact Nikisha Kimp.)

6 NIKISHA KIMP,  
7 being first virtually duly sworn to tell the truth,  
8 the whole truth, and nothing but the truth, was  
9 examined and testified as follows:

10 EXAMINATION

11 BY MR. KIND:

12 Q. Good morning.

13 A. Good morning.

14 Q. Could you please state your name --

15 MR. SAULS: I apologize, Mr. Kind; I'm  
16 certainly not trying to interrupt your thought. I  
17 just want to state for the record, I'm in a conference  
18 room, and Amanda Loughmiller, is in the same  
19 conference room with me. She's not making objections  
20 or doing any of that level of participation in the  
21 deposition. But just to be clear for the record.

22 THE REPORTER: Thank you.

23 MR. KIND: Appreciate that.

24 Q. So, Ms. Kimp, I was just going to ask you  
25 just to say your name for the record.

1 A. Nikisha Kimp.

2 Q. Right now you're remote. Are you together  
3 with anyone else in your room?

4 A. No, I'm home alone.

5 Q. And where is home? Not the actual address,  
6 just the city and state.

7 A. Philadelphia, Pennsylvania.

8 Q. Got it. All right. Could you tell me  
9 generally what you did to prepare for today's  
10 deposition?

11 A. I reviewed the exhibits and discussed them  
12 with my attorney.

13 Q. Understood. By "the exhibits," do you mean  
14 the credit reports, investigation results for  
15 Mr. Tuttobene?

16 A. Yes.

17 Q. Okay. Did you also review any policies and  
18 procedures?

19 A. Yes.

20 Q. Did you also review documents that were  
21 received from New American Funding?

22 A. Yes.

23 Q. For this deposition, is it okay if I refer to  
24 New American Funding as NAF?

25 A. Yes, that's fine.

1 Q. Okay.

2 MR. SAULS: And, Mr. Kind, again, I beg your  
3 pardon. Before we get too far into it, if you and I  
4 could have a discussion on how we're going to conduct  
5 everything to make sure that we link up, that we don't  
6 have any differences of opinion. Or if you're  
7 planning to do that, then I apologize for interrupting  
8 you.

9 MR. KIND: I'm not sure what you have in  
10 mind.

11 MR. SAULS: I'll just say a couple of pieces.  
12 With respect to objections, if I object to a question  
13 being beyond the scope of the notice, obviously my  
14 client will go ahead and answer. But for the purposes  
15 of the record, that answer will be based upon her  
16 personal knowledge to the extent that the particular  
17 question extends past the scope. And, you know, we'll  
18 be -- so anyway, just wanted to clarify with that.

19 And then also, I sent you some documents  
20 yesterday and I'm not sure where we left off on that.  
21 We can discuss it on the record; we could go off of  
22 the record. You know, I plan to introduce at least  
23 one of those documents as an exhibit, if you don't.  
24 But, you know, if there's a challenge or an issue with  
25 that, I'd love to get it out of the way at the outset,



1 reinvestigation procedures. So my client sent two for  
2 this case; there was one in June and one in August.  
3 Do you remember seeing that?

4 A. Yes.

5 Q. Were both -- for both reinvestigations, did  
6 they both follow the same general procedures for  
7 handling the disputes?

8 A. Yes.

9 Q. Could you tell me the general procedure  
10 TransUnion follows to handle a consumer dispute?

11 A. Well, um (inaudible).

12 (Reporter clarification.)

13 THE WITNESS: Well, what we do is once we get  
14 a letter or a dispute from the consumer, it goes to  
15 our imaging department, and they image it or scan it,  
16 and they send the document to a representative for  
17 processing.

18 The representative reviews the document, they  
19 pull an internal disclosure so they can see what's on  
20 the file. They review the account and review any  
21 attachment to the correspondence to see if there is  
22 something that TransUnion can do manually themselves.

23 If there is not anything that TransUnion can  
24 do manually to update the account, the lead account,  
25 or change the account, we send an investigation, or

1 CDV, to the data furnisher along with all the relevant  
2 information, and the data furnisher reviews the  
3 information and they send the response. And once we  
4 get the response, we send the response to the  
5 consumer.

6 BY MR. KIND:

7 Q. I notice that after -- we'll start at the  
8 end. I notice that after -- you mentioned that after  
9 the ACDV response is received, there was no additional  
10 investigation by TransUnion. Is that right, or does  
11 TransUnion review the ACDV response and then review it  
12 again?

13 A. Well, the ACDV response is electronic. We do  
14 our review initially before we send the CDV, and then  
15 once the CDV comes back, we generate the results and  
16 send it on the consumer.

17 Q. Once the ACDV comes back, is that processed  
18 automatically, or does it have a manual review to send  
19 it back to the consumer?

20 A. Mostly, it's automatic.

21 Q. You said "mostly." Could you clarify what  
22 you mean?

23 A. It's a system, so sometimes things come back  
24 where a person has to review it. Maybe somebody  
25 didn't enter the right code or something like that and

1 someone has to manually process the ACDV.

2 Q. Are you able to tell -- based on the  
3 documents you reviewed for today's deposition, are you  
4 able to tell if it was reviewed manually in this case  
5 after the ACDV responses came back?

6 A. Yes, it was not. Automatic.

7 Q. So let's go back to the beginning part. You  
8 said "imaging," I think that seemed to be the first  
9 process when the consumer dispute comes in. Could you  
10 tell me what "imaging" is?

11 A. It's our mailroom.

12 Q. Okay. And by "imaging," do you mean it gets  
13 scanned in to an electronic file?

14 A. Correct.

15 Q. And then it goes to -- you said it goes to  
16 processing after imaging?

17 A. Yes.

18 Q. What happens in the processing stage?

19 A. It's just sent for processing. It sits there  
20 and waits for someone to process it, to look at it or  
21 review it.

22 Q. Is that a manual process?

23 A. Yes.

24 Q. Does TransUnion have employees in-house that  
25 handle that processing?

1 A. Yes.

2 Q. Okay. In this case, was Mr. Tuttobene's  
3 disputes, either one or both, handled by TransUnion  
4 employees?

5 A. No, they were handled by Intelenet, our  
6 third-party vendor.

7 Q. Where is Intelenet based?

8 A. India.

9 Q. Does TransUnion have policies and procedures  
10 and manuals that Intelenet is supposed to follow while  
11 completing the processing stage of reviewing a  
12 consumer dispute?

13 MR. SAULS: Objection, beyond the scope of  
14 the notice of the deposition.

15 You can answer.

16 THE WITNESS: Yes.

17 BY MR. KIND:

18 Q. What's the name of that policy or procedure?

19 MR. SAULS: Same objection.

20 THE WITNESS: I guess in this case, it would  
21 be the dispute -- dispute policy.

22 BY MR. KIND:

23 Q. Okay. So TransUnion doesn't have an  
24 additional policy that's specifically for Intelenet;  
25 is that right --

1 MR. SAULS: Same objection.

2 BY MR. KIND:

3 Q. -- for disputes?

4 MR. SAULS: Same objection. Sorry.

5 THE WITNESS: Not that I'm aware of.

6 BY MR. KIND:

7 Q. So either way, if it was handled by an  
8 internal TransUnion employee or Intelenet, they would  
9 still follow the exact same policies, which is the  
10 TransUnion consumer dispute policies, right?

11 A. Yes.

12 Q. Did you speak to anyone at Intelenet in  
13 preparing for today's deposition?

14 A. No.

15 Q. Why not?

16 A. I don't know how to answer that question.  
17 That wasn't part of my preparation with my attorney.

18 Q. Do you think that you would be able to have  
19 any more information about the disputes relevant in  
20 this case if you had spoken to anyone at Intelenet?

21 MR. SAULS: Objection, calls for speculation.

22 THE WITNESS: Can you repeat that? Sorry.

23 BY MR. KIND:

24 Q. Yeah. You said you didn't speak to anyone at  
25 Intelenet. And I'm asking is the reason that you

1 didn't speak to them because you wouldn't have gained  
2 any additional information, you can access all the  
3 information from the data you already have. Is that  
4 right?

5 MR. SAULS: Objection, beyond the scope of  
6 the notice of the deposition.

7 THE WITNESS: Yes, that's correct.

8 BY MR. KIND:

9 Q. Okay. The next step you had mentioned was to  
10 pull internal disclosures -- correct me if I'm  
11 wrong -- can you tell me what that means?

12 A. We pull internal disclosures. So we will go  
13 in and look at the consumer's report and locate the  
14 account that's being disputed and we'll the review it.

15 Q. Is there something in particular that they  
16 are reviewing inside the disclosure?

17 A. Reviewing the account and the status of the  
18 account or whatever the dispute is in the report. We  
19 check the name, make sure that we're, you know -- make  
20 sure that we're picking or -- picking the correct  
21 file, locating the correct file to dispute the  
22 information.

23 Q. Does -- in TransUnion's system, if -- it  
24 sounds like they have to actually pull a disclosure to  
25 get a full report on a person as opposed to there is

1 constantly a report there that you could just look at.  
2 I don't know if you understand what I'm saying or if  
3 that's correct.

4 MR. SAULS: Objection, ambiguous.

5 BY MR. KIND:

6 Q. Did you understand my question?

7 A. Yes, I understand.

8 So, yes, so there is no continual report; you  
9 have to actually pull the report to view it.

10 Q. Understood. And then could you tell me  
11 about, once the disclosure is pulled, we're still --  
12 it's still in the processing department, right?

13 A. Yes.

14 Q. Okay. And then at this point, you mentioned  
15 that they review the account and review attachments.  
16 Could you tell me what are they reviewing and how  
17 they're reviewing this?

18 A. Well, they're reviewing the account to match  
19 up with what the consumer is saying. So in this case,  
20 he was saying that he was not late. So they would  
21 review the account to see where he's late at, what's  
22 he disputing. And we'll look at that, and then we  
23 will look at any documents that the consumer sent in  
24 to see if there was something to support the dispute  
25 in order for us to change it or delete it.

1 Q. As far as determining -- wait, let me start  
2 that again.

3 After that reviewing process, then the --  
4 what's the name of the -- what's the title of the  
5 person that does this; do they have a name, like a  
6 processing person?

7 A. I would just say a representative.

8 Q. Okay. Is it is a specific department to  
9 review these disputes?

10 A. Consumer operations.

11 Q. Okay. But customer operations also handles  
12 other things that are not disputes, right?

13 MR. SAULS: Objection to the extent it  
14 misstates prior testimony.

15 THE WITNESS: As far as I know, they only  
16 handle disputes: telephone disputes and written  
17 disputes.

18 BY MR. KIND:

19 Q. If a consumer comes in and just wants to buy  
20 their credit report or credit score, which department  
21 do they speak to?

22 A. It's --

23 MR. SAULS: Objection, not contained in the  
24 notice of the deposition.

25 THE WITNESS: That would be consumer



1 operations also.

2 BY MR. KIND:

3 Q. Okay. So consumer operations handle that,  
4 but they also handle this dispute process that we're  
5 talking about now, correct?

6 A. Yes. They're basically customer service.

7 Q. Understood. Customer service including this  
8 dispute process, correct?

9 A. Right.

10 Q. And it would still be the same  
11 representatives at Intelenet that handle generally the  
12 customer service too, right?

13 MR. SAULS: Objection, outside of the scope  
14 of the notice of the deposition.

15 A. Well, they have different people that does  
16 different things, but they're all consumer operations,  
17 if that makes sense. So they have people who talk on  
18 the telephone and then they have people who process  
19 written disputes. But it's all under customer  
20 service.

21 BY MR. KIND:

22 Q. Do you know how many representatives they  
23 have -- that TransUnion has, including those at  
24 Intelenet or some other company -- how many people  
25 they have handling consumer disputes?

1 MR. SAULS: Objection, beyond the scope of  
2 the notice of the deposition.

3 THE WITNESS: No, I don't know that.

4 BY MR. KIND:

5 Q. More than 100?

6 MR. SAULS: Same objection.

7 THE WITNESS: I would say it's more than 100.

8 BY MR. KIND:

9 Q. Is it more than a thousand?

10 MR. SAULS: Same objections.

11 THE WITNESS: I don't -- I don't know.

12 BY MR. KIND:

13 Q. Okay. All right, so they review the account,  
14 they review the attachments, and then the  
15 representative is able to make a determination at that  
16 point; is that right?

17 A. Yes, they're able to decide what they need to  
18 do to go further.

19 Q. Does -- do the representatives have any  
20 discretion to believe or not believe a consumer and  
21 what he's saying in his dispute?

22 MR. SAULS: Objection, calls for speculation.

23 THE WITNESS: No, there's no discretion. We  
24 have to follow the policies and procedures as they are  
25 written.

1 BY MR. KIND:

2 Q. So, for example, we'll get to this later, but  
3 there are specific dispute codes. Do you know what  
4 I'm talking about?

5 A. Yes.

6 Q. So is it a TransUnion policy that the  
7 representative must pick one of the codes?

8 A. Well, in order to dispute, you have to at  
9 least pick at least one.

10 Q. But is there a code that's, like, other,  
11 doesn't fit in the other disputes, in the other codes,  
12 something like that, and then they can manually  
13 process it because it doesn't fit into one of the  
14 codes?

15 A. Yeah, we have a code that we can use for if,  
16 you know, it's not clear or we're not clear about what  
17 the dispute is. We have a code that we can use for  
18 other so that we can send the information to the  
19 creditor.

20 Q. And then in this case, they would manually  
21 type in what the dispute is?

22 A. Well, that's a -- they don't have to. You  
23 know, they'll attach the image or attach their  
24 documents and send them to a data furnisher in that  
25 case.

1 Q. Before we get to sending to the furnisher,  
2 the data furnisher, I'd still like to talk a little  
3 bit more about TransUnion's internal investigation  
4 before it goes to the data furnisher.

5 For example, let's say a dispute comes in and  
6 it doesn't fit one of the dispute codes, but the  
7 representative says, "Hey, this is a really good  
8 dispute, it doesn't fit with one of these, I agree  
9 with it," do they have a way to click something and  
10 update the information if it doesn't fit within the  
11 dispute codes?

12 MR. SAULS: Objection, compound, and calls  
13 for speculation.

14 THE WITNESS: The only way that we could  
15 correct information is if we receive supporting  
16 documents.

17 BY MR. KIND:

18 Q. I see. So that's helpful. So TransUnion  
19 will never update or delete information unless there  
20 are supporting documents; is that right?

21 MR. SAULS: Objection, calls for speculation.

22 THE WITNESS: Well, I can't say never because  
23 there are things in place where things do get deleted  
24 without supporting documents, or updated.

25 BY MR. KIND:

1 Q. Can you tell me what those scenarios are?

2 MR. SAULS: Objection, calls for narrative.

3 THE WITNESS: I can't pinpoint anything right  
4 now. I just know that there are cases that our system  
5 will make the update based on a dispute or a claim.

6 BY MR. KIND:

7 Q. And is that based on information that the  
8 representative types in or is that based on a code  
9 that the representative enters?

10 MR. SAULS: Same objection.

11 THE WITNESS: That would be based on a code  
12 that a representative enters.

13 BY MR. KIND:

14 Q. Okay. So --

15 MR. SAULS: Mr. Kind, I don't want to  
16 interrupt you. We've been going about an hour and a  
17 half. Is there a break on the horizon? Or certainly  
18 whenever it's comfortable for you, we're happy to do  
19 that.

20 MR. KIND: Anytime. If you want to break  
21 right now, we can. How long are you looking to take?

22 MR. SAULS: Look, if you don't want to take  
23 one at this juncture, that's fine, but we could  
24 probably take -- whenever you're ready to break, we  
25 could do a ten-minute break if you'd like. But I'm

1 not needing a right break now, if you would like to --  
2 whenever we get to that point, ten minutes I think  
3 will work for us.

4 MR. KIND: Sure. We could take a ten-minute  
5 break now. It's up to you; I'm good to continue.

6 MR. SAULS: We'll go ahead and continue.

7 MR. KIND: Just let me know when you need to  
8 take a break. Court reporter as well, please just let  
9 me know.

10 THE WITNESS: Since we're talking about  
11 breaks, let's take one right now. I need the  
12 restroom.

13 MR. KIND: All right. We'll go off the  
14 record and be back in ten minutes.

15 (Recess taken.)

16 BY MR. KIND:

17 Q. Before we took a break, we were talking about  
18 certain dispute codes, and you had mentioned that,  
19 depending on the code, sometimes the system will  
20 update or delete a record just based on a code without  
21 documentation. Do you remember we were discussing  
22 that?

23 A. Yes.

24 Q. As far as the codes that were used for  
25 Mr. Tuttobene's disputes, were those the sorts of

1 codes that the system would update or delete  
2 information without additional documentation?

3 MR. SAULS: Objection, calls for speculation.

4 THE WITNESS: Um, in his case, no, those  
5 would not be codes that would be used.

6 BY MR. KIND:

7 Q. Could you clarify what you mean, they would  
8 not be used?

9 A. So in -- his claim was payment history, he  
10 was disputing a late payment history. So the code  
11 that was used to dispute the late payment history  
12 would not be a code that would delete or change an  
13 account.

14 Q. Without documentation?

15 A. Without documentation, correct.

16 Q. Okay. So for Mr. Tuttobene's type of  
17 dispute, he could have put almost anything in his  
18 dispute letter, but without documentation, TransUnion  
19 wouldn't update or delete the disputed information; is  
20 that right?

21 MR. SAULS: Objection, calls for speculation,  
22 compound.

23 THE WITNESS: I can't say that's correct.

24 BY MR. KIND:

25 Q. Okay. Why not?

1           A. Because there are so many different  
2 scenarios, I can't say that if he sent in some other  
3 type of dispute that there wouldn't be an update to  
4 the account.

5           Q. Let me ask you this. When a consumer is  
6 disputing a late notation, are there any codes that  
7 TransUnion could use that would update or delete that  
8 late notation without supporting documentation from  
9 the consumer?

10          A. No.

11          Q. Okay. So in that scenario, the next step for  
12 TransUnion would be the ACDV process, correct?

13          A. Correct.

14          Q. What is the ACDV process?

15          A. The process would be to send the dispute  
16 codes and all the relevant information for the data  
17 furnisher to review, and it's electronic.

18          Q. Okay. And we discussed before that the  
19 response comes back, and then, at least in this case,  
20 the process is electronic, and then the  
21 reinvestigation results get sent out to the consumer,  
22 correct?

23                 MR. SAULS: Objection to the extent it  
24 misstates prior testimony.

25                 THE WITNESS: Well, the account would be



1 updated based on whatever changes were on the ACDV,  
2 and then the results would be generated and sent to  
3 the consumer.

4 BY MR. KIND:

5 Q. And when you say "the account would be  
6 updated," that's an automatic computer process as  
7 opposed to a manual representative process, right?

8 A. Correct.

9 MR. SAULS: Mr. Kind, pardon my interruption.  
10 You are referring to, without having submitted an  
11 exhibit, TransUnion's confidential documents, policies  
12 and procedures, and that's fine if you don't want to  
13 submit an exhibit, but I would just like to note for  
14 the record that TransUnion's policies and procedures  
15 were produced under a protective order with a  
16 confidential marking, and so any testimony concerning  
17 those documents or the policies and procedures therein  
18 will also be designated as confidential per our  
19 protective order.

20 MR. KIND: That's fine. And similar for any  
21 information that's being discussed about  
22 Mr. Tuttobene's personal identifying information  
23 should also definitely be redacted or filed under seal  
24 and is designated as confidential without the proper  
25 redactions.

1 they handle his dispute; what did they believe  
2 happened there?

3 MR. SAULS: Objection, compound, ambiguous,  
4 and calls for narration.

5 THE WITNESS: I cannot say what the  
6 representative that processed the dispute believed.  
7 We have specific procedures and policies that we have  
8 to abide by.

9 BY MR. KIND:

10 Q. Okay. When TransUnion sent its ACDVs to NAF,  
11 what was it trying to verify from NAF?

12 A. From my recollection, we asked them to verify  
13 the payment history on the account and balances.

14 Q. So when you say verifying payment history, do  
15 you agree with me now, though, that Mr. Tuttobene  
16 wasn't disputing the payment history? In other words,  
17 he wasn't saying that his payment wasn't -- he wasn't  
18 saying that he wasn't late in 20 -- in February -- let  
19 me start that again.

20 Now, after sitting here today, do you agree  
21 with me that Mr. Tuttobene did not dispute that NAF  
22 considered his payment for January 2018 as 30 days  
23 late; do you agree with that?

24 MR. SAULS: Objection, compound, and  
25 ambiguous.

1 THE WITNESS: Can you repeat that again?

2 BY MR. KIND:

3 Q. Sure. Mr. Tuttobene is not disputing that  
4 NAF claims that he was 30 days late in January 2018;  
5 do you agree with that?

6 MR. SAULS: Objection, compound, ambiguous,  
7 and leading.

8 THE WITNESS: From my recollection without  
9 looking at the document, I believe he was disputing  
10 that he was not late in February 2018.

11 BY MR. KIND:

12 Q. Uh-huh. Okay. So for that month,  
13 Mr. Tuttobene's dispute was not that -- he wasn't  
14 saying that NAF had accepted his payment; he was  
15 saying that NAF didn't accept his payment, but it  
16 should not be reported because he tried to make the  
17 payment. Do you agree with that?

18 MR. SAULS: Objection, compound, and  
19 ambiguous. And I'm going to have my client answer.  
20 Would it be helpful to pull up the actual dispute?

21 THE WITNESS: That was going to be my next  
22 question. Could you pull it up so I can look at it?

23 BY MR. KIND:

24 Q. We will get to -- we will get to that. But I  
25 just want to really understand TransUnion's position

1 in this case. So -- and what they were thinking at  
2 the time.

3 So in other words, what do you understand to  
4 be Mr. Tuttobene's dispute?

5 MR. SAULS: Objection, narration, and calls  
6 for speculation, compound. And will ask respectfully  
7 again, we believe we certainly have the dispute in  
8 evidence, we can definitely take a look at that.  
9 Might make for an easier deposition, Mr. Kind, but  
10 whatever you prefer. And, you know, my client is  
11 trying to tell you that she kind of wants to look at  
12 the dispute. So is that okay? Can we look at that?  
13 BY MR. KIND:

14 Q. Is that your response, that you don't know  
15 and you want to look at the dispute?

16 A. Yes, I would like to look at the dispute,  
17 please.

18 Q. Okay, so let's do that.

19 Are you able to see my screen?

20 A. Yes. If you can enlarge it just a little  
21 bit.

22 Q. I will. Okay, let's get it a little bigger.  
23 All right, so we're on TU 40, so Bates No. TU 40.  
24 This is the dispute letter from June 10, 2019.

25 And I'll wait for you, Mr. Sauls, until

1     you're ready to continue.

2             MR. SAULS: Yes, please. I'm ready.

3     BY MR. KIND:

4             Q. So does this help you respond to my question?

5             A. Yes. But can you repeat the question again?

6             Q. Sure. The question was, does TransUnion  
7     think -- is it TransUnion's position -- well, the  
8     question is this:

9             Mr. Tuttobene's dispute was not that NAF  
10     accepted his payment and it was posted. Rather, his  
11     dispute is that NAF was refusing his payment and he  
12     had tried to make his payment. Do you agree with  
13     that?

14             MR. SAULS: Objection, compound and vague.

15             THE WITNESS: I would say that he's saying  
16     that NAF is incorrectly reporting that his payment was  
17     late or past due.

18     BY MR. KIND:

19             Q. But why is he saying that it's incorrect? Is  
20     he saying that this is incorrect because they actually  
21     did take my payment and I wasn't 30 days late, or  
22     rather, he's saying that they refused his payment  
23     because of the old account number, and that I tried to  
24     make my payment, but they refused it, and therefore  
25     I'm not 30 days late?

1 MR. SAULS: Objection, ambiguous, calls for  
2 speculation, and compound.

3 THE WITNESS: Yeah, in his letter, he does  
4 say that they were -- he did say that they were  
5 refusing his payment because he was using the old  
6 account number.

7 BY MR. KIND:

8 Q. Okay. So as a result of this dispute letter,  
9 TransUnion then did not update his account, correct?

10 MR. SAULS: Objection, vague.

11 THE WITNESS: TransUnion sent the dispute  
12 letter, along with his disputes, to NAF.

13 BY MR. KIND:

14 Q. To NAF. And in the ACDV, TransUnion was  
15 asking NAF to verify his -- to verify the late  
16 notation, correct?

17 A. Yes. Asked them to verify all the payment  
18 status and the payment history on the account.

19 Q. Okay. But again, Mr. Tuttobene wasn't  
20 disputing that the payment was entered 30 days past  
21 due. So my question to you is, what was the purpose  
22 of asking NAF to verify it --

23 MR. SAULS: Objection --

24 BY MR. KIND:

25 Q. -- that it was entered 30 days past due?

1 MR. SAULS: I apologize.

2 Objection, assumes facts not in evidence,  
3 calls for speculation and vague.

4 THE WITNESS: I would say, me personally  
5 looking at this document, if you go to the first page,  
6 he said that it was inaccurate that I am past due an  
7 amount, \$802. This is inaccurate because I'm not past  
8 due on my obligations. So to me -- and then he says,  
9 "Specifically, NAF reports that I was 30 days past due  
10 in February 2018. I was not."

11 So me personally, I would have disputed it,  
12 the February 2018 payment, because he's saying that he  
13 was not 30 days past due for that month.

14 BY MR. KIND:

15 Q. Right. But would you have continued to read  
16 the rest, or at this point is it pretty clear -- "at  
17 this point," I mean where it says "...February 2018.  
18 I was not." At this point, is it pretty clear what  
19 the dispute is, or would you or the representative  
20 have continued to read his justification?

21 A. We would continue to read -- I'm sorry.

22 MR. SAULS: Objection, calls for speculation,  
23 ambiguous.

24 THE WITNESS: Okay. So we would continue to  
25 read the entire investigation. And like I say, we

1 personally read the entire document. It justifies  
2 using the code that we used.

3 BY MR. KIND:

4 Q. Okay. Yeah, and that's what my question is.  
5 When he's not disputing that the payment was entered  
6 30 days late, he's just trying to provide a  
7 justification, so then what's the point of asking NAF  
8 to verify that the payment was or was not made 30 days  
9 late?

10 MR. SAULS: Objection, assumes facts not in  
11 evidence, and ambiguous, calls for speculation.

12 THE WITNESS: Well, we sent NAF the letter  
13 that Mr. Tuttobene sent us. And in his letter, he is  
14 saying that we're reporting him past due 30 days and  
15 he was not. So we want to address that, because in  
16 looking at his letter, it looks like he wants that  
17 information corrected or removed.

18 BY MR. KIND:

19 Q. Uh-huh. So if you were handling this dispute  
20 now, would you put in the comment to NAF this  
21 justification down here, or would you have done it  
22 exactly the same way as they have?

23 MR. SAULS: Objection, calls for speculation.

24 THE WITNESS: Me personally, I would have  
25 done it maybe not exactly, because I remember they



1 gave like extra information, but the information asked  
2 them to verify the payment history. I would have done  
3 that. And I would have also sent a copy of the letter  
4 to NAF so they can see exactly the details of the  
5 dispute.

6 BY MR. KIND:

7 Q. You said "not exactly." Would you have left  
8 a note in the ACDV comments section something along  
9 the line of consumer claims he tried to make payment,  
10 something like that? Is that something that you would  
11 do?

12 MR. SAULS: Objection, calls for speculation.

13 THE WITNESS: I'm not sure. I don't think  
14 so. I think the code used captured his dispute.

15 BY MR. KIND:

16 Q. What's the reason why you wouldn't put that  
17 in there; is it because it's irrelevant?

18 MR. SAULS: Objection, calls for speculation.

19 THE WITNESS: Well, as I stated before, I  
20 feel like the code captures his dispute. And we also  
21 sent a copy of the details to the data furnisher, so  
22 they are able to see the details.

23 BY MR. KIND:

24 Q. You said the call captures the dispute?

25 A. The code. Sorry, the dispute code that was

1 used captures the dispute.

2 Q. We'll get to the dispute in just a little  
3 bit. But you can verify now, if you know, that code  
4 does not have what we're calling his justification  
5 here, correct?

6 MR. SAULS: Objection, leading.

7 THE WITNESS: I would say it does. Like I  
8 said, he's asking us to correct his payment history,  
9 the late payment.

10 BY MR. KIND:

11 Q. Okay. Well, the code asks them to verify  
12 whether or not he was 30 days past due. But the code  
13 does not say or does not incorporate, he tried to make  
14 his payment, he's saying it's not his fault. You  
15 remember that, right?

16 MR. SAULS: Objection, assumes facts not in  
17 evidence, and vague.

18 THE WITNESS: The code does ask them to  
19 verify the information. The letter also gives them  
20 the details of what his dispute is.

21 BY MR. KIND:

22 Q. Understood. Okay. Moving back just a little  
23 bit. Right now we're talking about the ACDV, but I  
24 want to go right before the ACDV process. So  
25 TransUnion's internal investigation before it sends

1 its ACDV.

2 So did TransUnion code or note or comment or  
3 in any way document that Mr. Tuttobene's dispute  
4 related to him saying that he had tried to make his  
5 payment, but it was rejected?

6 MR. SAULS: Objection, vague.

7 THE WITNESS: Are you asking about a comment  
8 in the system?

9 BY MR. KIND:

10 Q. Correct.

11 A. No.

12 Q. Okay. In its own investigation, TransUnion  
13 considered this as somebody who is disputing that NAF  
14 is saying he's 30 days late, correct?

15 MR. SAULS: Objection, ambiguous, and calls  
16 for speculation.

17 THE WITNESS: Can you repeat the question?

18 BY MR. KIND:

19 Q. Sure. The way TransUnion handled this  
20 dispute -- because I asked you about if they put in  
21 any codes of something relating to his justification  
22 here.

23 So now I'm saying -- or I'm asking you -- the  
24 way that they handled this dispute was as someone who  
25 is disputing that NAF has reported that his payment

1 wasn't made within 30 days, correct?

2 MR. SAULS: Objection, compound, ambiguous,  
3 and calls for speculation.

4 THE WITNESS: Well, we sent all the relevant  
5 information to the data furnisher.

6 BY MR. KIND:

7 Q. So, I'm sorry, you can finish your answer.

8 A. That's it. We sent all the relevant  
9 information to NAF: we sent the dispute code, sent a  
10 copy of the letter, everything that was relevant to  
11 his dispute.

12 Q. I understand that, and I'm not asking about  
13 the ACDV process. I'm asking before that as part of  
14 TransUnion's own investigation, right? So do you have  
15 a different answer for that?

16 MR. SAULS: Objection, vague.

17 THE WITNESS: Can you repeat it again? Maybe  
18 I'm not understanding what you're asking.

19 BY MR. KIND:

20 Q. Yeah. So in TransUnion's own internal  
21 investigation, did they consider the fact -- these  
22 justifications that Mr. Tuttobene was giving them, or  
23 did they just handle this as a general dispute where  
24 someone says that it's being reported 30 days late,  
25 let's verify it with the data furnisher?

1 MR. SAULS: Objection, compound, ambiguous.

2 THE WITNESS: So when we get documentation,  
3 we do review and consider everything that's in the  
4 documentation, and we handle it accordingly, according  
5 to our policies and procedures.

6 BY MR. KIND:

7 Q. So did TransUnion consider his justification,  
8 the reason why his payment was 30 days late?

9 MR. SAULS: Same objection.

10 THE WITNESS: TransUnion doesn't make that  
11 decision. We reviewed it, considered what he said,  
12 and we sent all the relevant information to NAF.

13 BY MR. KIND:

14 Q. When you say TransUnion doesn't make that  
15 determination or that decision, why is that?

16 MR. SAULS: Objection, misstates prior  
17 testimony.

18 THE WITNESS: Can you ask that question  
19 again?

20 BY MR. KIND:

21 Q. Yeah. You said TransUnion doesn't consider  
22 that information; we sent it to NAF. Generally,  
23 that's what you said. So why doesn't TransUnion  
24 consider this part of his letter where he puts the  
25 justification in?

1 MR. SAULS: Objection, misstates testimony,  
2 and vague.

3 THE WITNESS: I'm not saying that TransUnion  
4 doesn't consider his letter. That's not what I was  
5 trying to communicate.

6 What I'm saying is that we review the  
7 information and we consider everything that's included  
8 in the documentation envelope that comes along with  
9 it. And we take the information, and in accordance  
10 with our policies and procedures, we'll handle it  
11 accordingly.

12 BY MR. KIND:

13 Q. So did TransUnion in this case consider the  
14 fact that Mr. Tuttobene is saying that the reason why  
15 his payment was 30 days late is because he tried to  
16 make the payment, but it was rejected. Did they  
17 consider that part of the investigation or not?

18 MR. SAULS: Objection, asked and answered.

19 THE WITNESS: I would have to say yes.

20 BY MR. KIND:

21 Q. Okay. So when they considered it, what was  
22 their determination or their decision based on that  
23 consideration?

24 MR. SAULS: Objection, vague, calls for  
25 speculation.

1 THE WITNESS: Our decision was to send all  
2 the relevant information to NAF.

3 BY MR. KIND:

4 Q. So again, I'm not asking about the ACDV  
5 process. I'm talking specifically about TransUnion's  
6 investigation, right? So what was Trans -- so  
7 TransUnion considered the fact that he was saying I  
8 tried to make my payment, but they rejected it. So  
9 they considered that. What was their determination of  
10 that justification?

11 MR. SAULS: Objection, assumes facts not in  
12 evidence, compound, and ambiguous.

13 THE WITNESS: I don't think I can answer  
14 that. Only thing I can say is that when we get the  
15 information, we review it, we consider it, and then we  
16 follow the policy and procedure accordingly.

17 BY MR. KIND:

18 Q. Okay. And in this particular case, they  
19 considered the fact that he was -- I'm sorry.

20 So for this dispute letter that we have open  
21 here on TU 41, TransUnion considered Mr. Tuttobene's  
22 justification for being 30 days past due and they  
23 decided that -- well, question is what was their  
24 determination? Do you understand the question?

25 A. Well, I can't speak for the person who

1 processed the information, what their determination  
2 was. I only can go by what I see. And from what I  
3 see, the decision to send the dispute along with the  
4 relevant information was accurate.

5 Q. Okay. So you're talking again about the  
6 ACDV, so let's clarify something.

7 Do you believe that TransUnion has a duty to  
8 investigate Mr. Tuttobene's dispute internally, not  
9 including the ACDV process? So does TransUnion have  
10 that duty to investigate this dispute letter  
11 internally?

12 MR. SAULS: Objection, asked and answered,  
13 and calls for speculation.

14 THE WITNESS: Yes, we do -- we do internally  
15 review the documents and letters that the consumers  
16 send in.

17 BY MR. KIND:

18 Q. And you do also make a determination at the  
19 conclusion before you send out an ACDV, correct?

20 MR. SAULS: Objection, asked and answered.

21 THE WITNESS: Yeah, so the determination is  
22 based on our policies and our procedures.

23 BY MR. KIND:

24 Q. Understood. But that wasn't my question.

25 My question is, TransUnion makes a decision



1 before it sends out its ACDV, correct?

2 MR. SAULS: Same objection.

3 THE WITNESS: That's correct.

4 BY MR. KIND:

5 Q. So in this case, TransUnion reviewed this  
6 letter, and you said it considered the fact that he  
7 was giving this justification for being 30 days late.  
8 And therefore, after that, TransUnion decided to still  
9 report him 30 days past due, correct?

10 MR. SAULS: Same objection.

11 THE WITNESS: Well, TransUnion did not report  
12 him 30 days past due, NAF did. So we reviewed the  
13 information; we didn't -- there was no documentation  
14 to support or for us to internally update the account  
15 or change it. So at that point, we had to send the  
16 ACDV along with the letter to NAF.

17 BY MR. KIND:

18 Q. And again, I'm not talking about the ACDV  
19 process. I'm talking about TransUnion's internal  
20 investigation. And what -- so let me clarify what you  
21 said.

22 You said that we did not report this, NAF  
23 reported this. Correct?

24 MR. SAULS: Objection to the extent it  
25 misstates former testimony.

1 BY MR. KIND:

2 Q. Is that correct?

3 A. Yes. NAF reported the 30-day past due.

4 Q. So, so long as NAF confirms that it still  
5 wants to report this account late, TransUnion's  
6 position on this is, therefore, we will not update  
7 this and continue to leave this 30-day notation on the  
8 file, correct?

9 MR. SAULS: Same objection.

10 THE WITNESS: I believe TransUnion's position  
11 is to contact the lender or data furnisher, like an  
12 in-between person between them, so they can figure it  
13 out and get it corrected, if it's inaccurate.

14 BY MR. KIND:

15 Q. So this whole line of questioning started  
16 because I'm trying to ask you why TransUnion is  
17 sending -- why TransUnion sent the ACDV to NAF, what  
18 TransUnion thought the ACDV response will show. For  
19 example, if a consumer says that this payment was  
20 accepted by NAF -- right -- then it would make sense  
21 logically to send something to NAF to verify that the  
22 consumer is telling the truth. Does that make sense  
23 to you?

24 MR. SAULS: Objection, it's vague and calls  
25 for speculation, compound.

1 THE WITNESS: Can you repeat that?

2 BY MR. KIND:

3 Q. Sure. The purpose -- what I'm trying to ask  
4 you, and I've been trying to ask you this for the last  
5 ten minutes, is why did TransUnion send an ACDV in  
6 this case? Because the plaintiff is not disputing the  
7 fact that he was 30 days late; he's only saying that  
8 he has a justification that TransUnion should  
9 consider. So given that, what was TransUnion trying  
10 to accomplish? What information were they trying to  
11 verify from NAF?

12 MR. SAULS: Objection, asked and answered,  
13 ambiguous, compound, and argumentative.

14 THE WITNESS: Well, I thought I answered  
15 that. So in the letter, the consumer is indicating  
16 that something on his report is inaccurate, his  
17 payment, his past due amount of payment was  
18 inaccurate. So we sent the ACDV for NAF to review his  
19 claim, his dispute, so they can provide and update the  
20 credit report accurately.

21 BY MR. KIND:

22 Q. Okay. You're using the word "accurate" and  
23 "inaccurate" and to verify the account. He's actually  
24 not saying that I dispute the accuracy and please  
25 verify. He's being very specific in this dispute. I

1 don't think you're answering the question, but I do  
2 think you understand it, but I'll move on because it  
3 sounds like we're not going to get anywhere on this,  
4 and maybe we can circle back later.

5 So while we're on this topic here, regardless  
6 of why TransUnion sent that ACDV, we did mention that  
7 TransUnion considered the fact that he was giving a  
8 justification. Do you agree with me that TransUnion  
9 still -- that TransUnion could have, if it chose --  
10 without an ACDV, TransUnion could have removed that  
11 30-day notation; do you agree with that?

12 MR. SAULS: Objection, misstates matters in  
13 evidence, and ambiguous, asked and answered.

14 THE WITNESS: Can you repeat that?

15 BY MR. KIND:

16 Q. Sure. Before sending an ACDV to NAF,  
17 TransUnion could have removed this 30-day notation,  
18 correct?

19 MR. SAULS: Objection, calls for speculation.

20 THE WITNESS: Well, based on the documents  
21 that were sent and reviewed, there is nothing that  
22 would allow us to remove a 30-day late. There's  
23 nothing in our policies and procedures in this case to  
24 remove the late payment. There is no documentation.  
25 I really don't want to say we sent the ACDV, but that

1 was basically the outcome.

2 BY MR. KIND:

3 Q. That wasn't my question again.

4 My question is, TransUnion could have, if it  
5 had a policy to or whatever, it could have said, oh,  
6 we like this justification, that's correct, we're  
7 going to remove this regardless of what NAF tells us?  
8 It could have done that, correct?

9 MR. SAULS: Objection, compound, assumes  
10 facts not in evidence, calls for speculation, and  
11 ambiguous.

12 THE WITNESS: We're required to follow our  
13 policies and procedures.

14 BY MR. KIND:

15 Q. Is there ever a scenario when TransUnion will  
16 delete a 30-day late notation, ever, without sending  
17 an ACDV or before sending an ACDV?

18 MR. SAULS: Objection, compound, calls for  
19 speculation.

20 THE WITNESS: Yes.

21 BY MR. KIND:

22 Q. Okay. And it does that when the dispute  
23 letter together with any attached documents supports  
24 removing the 30-day notation, correct?

25 MR. SAULS: Same objection.

1 THE WITNESS: Right. If they have attached  
2 documents that support removing it, yes, we are able  
3 to remove the lates at this time.

4 BY MR. KIND:

5 Q. Based on this letter, without attachments to  
6 this particular letter, TransUnion correctly, in your  
7 opinion, did not remove the 30-day notation, correct?

8 A. Correct.

9 Q. Okay. And -- okay.

10 So other than reading the letter, considering  
11 this justification, and sending the ACDV, did  
12 TransUnion do anything else as far as its  
13 reinvestigation?

14 MR. SAULS: Objection, compound and vague.

15 THE WITNESS: Well, we sent the investigation  
16 results along with -- they include, like, instructions  
17 if the consumer disagreed with them.

18 BY MR. KIND:

19 Q. Okay. Anything else besides sending that to  
20 NAF?

21 MR. SAULS: Same objection.

22 THE WITNESS: Not that I'm aware of.

23 BY MR. KIND:

24 Q. Okay. Are you -- did TransUnion -- when they  
25 considered this justification by Mr. Tuttobene for

1 being 30 days late, did TransUnion have any reason not  
2 to believe him?

3 MR. SAULS: Objection, assumes matters not in  
4 evidence, ambiguous.

5 THE WITNESS: I don't think it's our position  
6 to believe or not believe. We have strict policies  
7 and procedures that we have to follow.

8 BY MR. KIND:

9 Q. And in this case, that procedure was to send  
10 an ACDV, correct?

11 A. That's correct.

12 Q. As you sit here today, though, after we have  
13 reviewed everything and we're a year or so later, do  
14 you have any reason to believe that plaintiff was not  
15 telling the truth in this letter?

16 MR. SAULS: Objection, calls for speculation.

17 THE WITNESS: I can't give my opinion. He  
18 could be telling the truth. I wouldn't say he's not  
19 telling the truth, but our policy -- we have policies  
20 to follow.

21 BY MR. KIND:

22 Q. And the policy in this case is to send the  
23 ACDV to the furnisher, correct?

24 MR. SAULS: Objection, asked and answered.

25 BY MR. KIND:

1 Q. That's correct?

2 A. That is correct.

3 Q. And if NAF updated it to remove the 30 days,  
4 then TransUnion would have removed it, correct?

5 A. That is correct.

6 MR. SAULS: Same objection.

7 BY MR. KIND:

8 Q. And if NAF did not update the 30-day  
9 notation, then TransUnion would not update the 30-day  
10 notation, correct?

11 MR. SAULS: Objection, calls for speculation.

12 BY MR. KIND:

13 Q. Is that correct?

14 A. Yes.

15 Q. In this case, NAF did not update the 30-day  
16 notation and TransUnion did not update the 30-day  
17 notation, correct?

18 MR. SAULS: Objection, misstates prior  
19 testimony, and vague.

20 THE WITNESS: Yes, NAF did not send us an  
21 update to the 30-day late.

22 BY MR. KIND:

23 Q. And therefore, TransUnion did not remove the  
24 30 days late, correct?

25 MR. SAULS: Objection, vague.



1 THE WITNESS: The 30-day late was not  
2 removed, correct.

3 BY MR. KIND:

4 Q. Because NAF did not remove it, correct?

5 MR. SAULS: Objection, vague, asked and  
6 answered.

7 THE WITNESS: Correct. NAF did not send the  
8 request to remove the 30-day late.

9 BY MR. KIND:

10 Q. So is there any way that -- and we'll move on  
11 after this. But is there any way that Mr. Tuttobene  
12 could have given TransUnion -- let me start that  
13 again.

14 MR. SAULS: Ms. Johnson, I want to make sure,  
15 can you hear me okay?

16 THE REPORTER: Yes.

17 MR. SAULS: Okay. I'm getting a little bit  
18 of feedback like a typing. But I can hear everyone  
19 else.

20 Mike, I want you to finish your questioning,  
21 and we'll just ask that at some point, I think we're  
22 about three hours in, including the breaks, if we  
23 could maybe break for lunch after you get to a  
24 stopping point.

25 MR. KIND: Sure. I have about ten minutes

1 this was deleted; this all stayed, correct?

2 A. Correct.

3 MR. SAULS: Can you speak up a bit, Mr. Kind?  
4 You're getting a little quieter on that end.

5 MR. KIND: Will do.

6 Q. On TU 84, again this is information that  
7 remained on the credit report after the ACDV came  
8 back, correct?

9 A. Yes.

10 Q. We're on TU 85. Could you tell me what this  
11 is?

12 MR. SAULS: Asks for narrative.

13 THE WITNESS: Yes, that's the cover page for  
14 the investigation results.

15 BY MR. KIND:

16 Q. And can you see who sent out -- or who  
17 handled this reinvestigation results to be sent to  
18 Mr. Tuttobene?

19 A. So it would be the part where it says  
20 Information for Internal Use, and it says "ACDV,"  
21 "CRS," "TU Corporate."

22 Q. So this would be automated as opposed to  
23 somebody -- like before we saw it had somebody's name.  
24 Correct?

25 A. Yes.

1 Q. Okay. And then from TU 86, these would be  
2 the results that were mailed to Mr. Tuttobene,  
3 correct?

4 A. Yes.

5 Q. All right. And then on 87, it shows the key  
6 as showing that the tag "30" means 30 days late,  
7 correct?

8 A. Yes.

9 Q. And then on 89, it shows that that 30-day  
10 notation is still appearing on February 2018, right?

11 A. Yes.

12 Q. On TU 86, when -- if TransUnion does No. 3,  
13 determined that the data furnisher had previously  
14 verified the reported information, if that's what  
15 happened, would TransUnion still send an ACDV or no?

16 MR. SAULS: Objection, calls for speculation.

17 THE WITNESS: No, if it was previously  
18 verified, TransUnion would not send the ACDV.

19 BY MR. KIND:

20 Q. We talked before about that hundred-word  
21 statement. Where on this report would that  
22 hundred-word statement appear, if anywhere?

23 MR. SAULS: Objection, ambiguous.

24 THE WITNESS: If the consumer asks us to add  
25 a 100-word statement, I believe it would be on the

1 investigations results page.

2 BY MR. KIND:

3 Q. So is that here, TU 89?

4 A. Yeah. I'm not sure, but it would -- it would  
5 be somewhere in the investigation results document.

6 Q. Do you see anywhere that there is one of  
7 those hundred-word statements appearing on this  
8 reinvestigation results document?

9 A. No. The consumer didn't ask for one.

10 Q. How do you know that -- does TransUnion have  
11 a specific method for consumers to ask for a  
12 hundred-word statement, or could they just include it  
13 in their dispute letter?

14 A. They can just include it in their dispute  
15 letter. They would have to specifically say that they  
16 would like this statement added to their consumer  
17 report.

18 Q. Okay. So if the consumer -- if the dispute  
19 letter asks for it, then this would not be  
20 TransUnion's policy -- this -- so let me say that  
21 again.

22 If he had asked for a hundred-word statement  
23 in his letter, then this reinvestigation results would  
24 not follow TransUnion's policy because it does not  
25 include the hundred-word statement; do you agree with

1 that?

2 MR. SAULS: Objection, assumes facts not in  
3 evidence, and calls for speculation.

4 THE WITNESS: Can you repeat that question?  
5 I'm sorry.

6 MR. SAULS: Can you blow up your -- I'm  
7 sorry, Mr. Kind, I'm not seeing your screen again.

8 Okay, thank you.

9 BY MR. KIND:

10 Q. So the question is --

11 MR. SAULS: I cut out on the last part. Are  
12 you talking about the dispute or after they receive  
13 their results? I didn't hear what you said.

14 MR. KIND: I'll ask the question again.

15 MR. SAULS: Okay.

16 BY MR. KIND:

17 Q. If Mr. Tuttobene had asked for a hundred-word  
18 statement in his dispute letter that we looked at  
19 before, then this reinvestigation result document  
20 would not comply with TransUnion's procedures because  
21 it does not include a hundred-word statement. Is that  
22 correct?

23 MR. SAULS: Objection, ambiguous and vague,  
24 calls for speculation.

25 THE WITNESS: I don't understand what you

1 mean "would not comply." If his dispute letter  
2 included the 100-word statement, we would add it to  
3 his consumer -- his consumer disclosure.

4 BY MR. KIND:

5 Q. Okay. But so my question is -- and it would  
6 appear somewhere here in this reinvestigation results  
7 document, correct?

8 MR. SAULS: Objection, ambiguous, and calls  
9 for speculation.

10 THE WITNESS: And again, I'm not sure of  
11 exactly where it would appear, but it would appear  
12 wherever we -- you know, whatever we mailed to him, we  
13 would let him know that a consumer statement was added  
14 to his consumer disclosure.

15 BY MR. KIND:

16 Q. And this document we have here in front of  
17 us, it does not have a hundred-word statement. Do you  
18 agree?

19 A. I agree.

20 Q. So if Mr. Tuttobene had included a request  
21 for a hundred-word statement, if that was the case,  
22 then this document would not comply with TranUnion's  
23 procedures, correct?

24 MR. SAULS: Objection, ambiguous, and  
25 leading, and beyond the scope of the notice of the

1 deposition.

2 THE WITNESS: And again, I'm not sure if the  
3 consumer statement would be in this part of the  
4 investigation results that would be mailed to  
5 Mr. Tuttobene. It would be in one of the pages of  
6 those results. Like I said, I don't really know the  
7 format, right just looking at this, where it would be.  
8 Because there is none, so I don't know -- I don't know  
9 where to say that statement would be.

10 BY MR. KIND:

11 Q. I'm not asking you to tell me where it is. I  
12 think you already answered that it doesn't appear. We  
13 looked through this document and it's not here. I'm  
14 not asking you where it would be.

15 My question is that, if Mr. Tuttobene had  
16 included a request in his dispute for the hundred-word  
17 statement, then this document does not follow  
18 TransUnion's procedures, because this document doesn't  
19 have a hundred-word statement. True or false?

20 MR. SAULS: Objection, vague and ambiguous,  
21 calls for speculation.

22 THE WITNESS: I'll answer you this way, if --  
23 I guess we're speaking hypothetically -- he requested  
24 a 100-word statement, the investigation results -- and  
25 we're talking about what he submitted and specifically

1 what he said, and he added a 100-word statement, then  
2 the investigation results would include what we see  
3 here on this page and it would include the -- a notice  
4 letting him know that we added a 100-word statement.

5 MR. SAULS: Mr. Kind, can we take a break  
6 right before the hour here? I think it's 8 o'clock  
7 Ms. Kimp's time.

8 MR. KIND: Do you want to do that now or go a  
9 couple more minutes?

10 MR. SAULS: It's up to you. I'd rather just  
11 kind of run and do it now, if that's okay.

12 MR. KIND: Let's do it.

13 MR. SAULS: Right back at 8 o'clock,  
14 Ms. Kimp's time, okay?

15 MR. KIND: Yes.

16 (Recess taken.)

17 MR. SAULS: Just to put on the record,  
18 Mr. Kind and I just had an off-the-record  
19 conversation, and just to capture that for the record,  
20 the time is now 7:00 p.m. Central time. The  
21 deposition started a 12:00 p.m. Central time, so it's  
22 been seven hours, not including a handful of breaks  
23 and an hour lunch. Mr. Kind has indicated he's going  
24 to push through the entire hour and a half and exhaust  
25 the seven-hour deposition time and then allow counsel



1 for TransUnion to handle cross-examination at the  
2 remainder of the time.

3 I will state for the record, Mr. Kind, if you  
4 do that, you will not have the availability for a  
5 redirect. Your time is seven hours per the Federal  
6 Rules of Civil Procedure, so should you exhaust that  
7 entire one hour and a half and exhaust our seven  
8 hours, after I do my cross-examination, your  
9 redirect -- we are not going to participate in  
10 redirect because you do not have time remaining in the  
11 seven-hour time period you're given under the rules.  
12 So you can agree or disagree with that. I'll state  
13 that for the record.

14 I will also state for the record, my client  
15 is on the East Coast, it is now 8:00 p.m., we are  
16 heading to the nighttime. Mr. Kind is entitled to  
17 move through the disputes. He's on dispute 1; he's  
18 entitled to move through the documents at his pace.  
19 But there is a seven-hour allotment under the Federal  
20 Rules of Civil Procedure, and that is not enhanced  
21 because of a perceived need for redirect. So we can  
22 move through an entire hour and a half and completely  
23 exhaust the seven hours, but that will be it.

24 MR. KIND: Well, what we can do is I can stop  
25 a little bit before an hour and a half and just

1 reserve a little time for rebuttal as well. For the  
2 record, the transcript will speak for itself.

3 The responses -- we spoke about this off the  
4 record -- the responses we are getting are largely  
5 nonresponsive, I've had to repeat myself; many, many,  
6 speaking objections, which were discussed, are taking  
7 a lot of time, including the speech we just got.

8 So I'm doing my best to move through these.  
9 I have everything highlighted, pretty fast questions,  
10 but I'm getting stuck a lot on the responses and the  
11 objections are taking time. So I'm doing my best to  
12 move this forward. I want to be done as soon as  
13 possible, but I do need to get through the questions  
14 that I need to ask for my client's case.

15 MR. SAULS: Understand. And the last thing I  
16 will say is, Mr. Kind, you have not made one single  
17 nonresponsive objection today. Not one. So to the  
18 extent that you are saying that the responses are  
19 nonresponsive, you have yet to make one nonresponsive  
20 objection on anything that Mrs. Kimp has said. So I  
21 will respectfully reject your assertion that Mrs. Kimp  
22 has been nonresponsive, for you have not objected to  
23 it; you have not reserved that right.

24 Nothing further from me, we can continue, but  
25 I stand by my previous statement.

1 MR. KIND: Just for the record, it's not my  
2 practice to make nonresponsive objections. I did end  
3 up getting my answers, but they're taking a lot of  
4 time to get them.

5 Q. So we're going to continue here on -- we're  
6 on Bates No. 86. And you know what, for the record,  
7 this is Exhibit 2. So I said it before. So the  
8 deposition notice would be Exhibit 1, this whole  
9 thing, 1 through 147, is Exhibit 2. And we're now on  
10 Bates No. 86.

11 So before we just took the break, I asked the  
12 question that, if Mr. Tuttobene had requested -- and I  
13 didn't get a response. So if -- here's my question:

14 If Mr. Tuttobene had requested in his dispute  
15 letter for a 100-word statement, do you agree that  
16 this investigation results did not follow TransUnion  
17 procedures because this reinvestigation result does  
18 not include a 100-word statement?

19 MR. SAULS: Objection, compound, calls for  
20 speculation, assumes facts not in evidence, and  
21 incomplete hypothetical.

22 THE WITNESS: Again, as I stated before, if  
23 we are hypothetically speaking, the dispute from  
24 Mr. Tuttobene would have to specify that he wanted a  
25 100-word consumer comment. And if he submitted his

1 dispute the exact same way as the document we  
2 reviewed, then the investigation results would have  
3 included the hundred-word statement or an indication  
4 that a 100-word statement was added, and it will also  
5 include the investigation results page that shows the  
6 account and how it appeared after the response from  
7 NAF.

8 BY MR. KIND:

9 Q. Again, the question was not -- you're not  
10 responding to my question, so I'm going to ask it a  
11 different way.

12 This reinvestigation result does not include  
13 a 100-word statement, correct?

14 MR. SAULS: Objection, asked and answered.

15 THE WITNESS: Correct.

16 BY MR. KIND:

17 Q. When a consumer asks for a statement in their  
18 dispute letter, then it's TransUnion's policy to  
19 include a statement in your reinvestigation results,  
20 correct?

21 MR. SAULS: Objection, calls for speculation,  
22 and vague.

23 THE WITNESS: The consumer would have to  
24 specifically ask us to add a 100-word statement to  
25 their consumer file.

1 BY MR. KIND:

2 Q. And in that case, it's TransUnion policy to  
3 include a statement on the reinvestigation results,  
4 correct?

5 MR. SAULS: Same objection.

6 THE WITNESS: And again, I'm not sure how  
7 it's formatted, but from what I understand, it would  
8 indicate that a 100-word statement was added to the  
9 consumer file.

10 BY MR. KIND:

11 Q. Does TransUnion have a specific method that  
12 consumers have to ask for that 100-word statement?

13 MR. SAULS: Objection, vague.

14 THE WITNESS: If the consumer would like a  
15 100-word statement, they can write in to us, contact  
16 us by telephone, and request one.

17 BY MR. KIND:

18 Q. Okay.

19 A. They can go online also and ask for one.

20 Q. Does TransUnion require that the consumer use  
21 specific phrases or specific words when asking for a  
22 100-word statement?

23 MR. SAULS: Objection, vague.

24 THE WITNESS: There are no specific words,  
25 but it has to be clear that that is what they are

1 requesting.

2 BY MR. KIND:

3 Q. Is it okay for a consumer to include that  
4 request within a dispute or does it have to be a  
5 separate letter?

6 A. It can be within the dispute, but they have  
7 to specify that that's what they want.

8 Q. Okay. Do they have to use -- do consumers  
9 have to use the word "100" when they're asking for a  
10 100-word statement?

11 MR. SAULS: Objection, vague, beyond the  
12 scope of the notice of the deposition.

13 THE WITNESS: No, they don't have to use the  
14 word "100."

15 BY MR. KIND:

16 Q. Do consumers have to type out their 100-word  
17 statement, or can they say something more generally  
18 like, "I dispute it. Please put a statement that I  
19 dispute this account"?

20 MR. SAULS: Objection, vague, and beyond the  
21 scope of the notice of the deposition, compound.

22 THE WITNESS: They would have to indicate  
23 that they would like the statement added to their  
24 consumer file.

25 BY MR. KIND:

1 Q. Do they have to say this is the statement and  
2 tell you what the statement is, or can they say  
3 "please add the statement that I dispute," something  
4 like that. Is that acceptable?

5 MR. SAULS: Objection, vague, and asked and  
6 answered.

7 THE WITNESS: They can say "this is the  
8 statement," they can say "please add this statement."  
9 BY MR. KIND:

10 Q. Is it okay if they say "please include a  
11 statement that I dispute this account"?

12 MR. SAULS: Objection. Mr. Kind, I'm about  
13 to ask my client not to answer. We have answered this  
14 question. If you want to go to the dispute, if you  
15 want to look at some more documents. She's answered  
16 this question multiple times and now I'm -- under Rule  
17 30, you're harassing my client with respect to this  
18 question. She has answered the question.

19 I'm going to object, asked and answered, and  
20 I'm going to respectfully ask you at this hour --  
21 she's answered the question multiple times; you're not  
22 getting the answer you're looking for, I understand  
23 that. But respectfully, please, I don't want to have  
24 to ask my client not to answer the question. But we  
25 need -- we're getting into the harassment category.

1 With respect. She's answered the question.

2 MR. KIND: All right. If you would like to  
3 instruct your client not to answer, please do, instead  
4 of these long speeches taking up time. So if you  
5 think that's what's happening, instruct her. But my  
6 question was different, okay? The last question I  
7 asked is -- and these are different questions, and I'm  
8 going to ask it again.

9 Q. If the consumer says "please include a  
10 statement that I dispute this account," is that  
11 considered a request that TransUnion would normally  
12 honor?

13 MR. SAULS: Objection, ambiguous, calls for  
14 speculation.

15 THE WITNESS: If the customer says "please  
16 add this customer statement to my file," we would add  
17 it to the file.

18 BY MR. KIND:

19 Q. Again, that's not my question. My question  
20 is they say "please add a statement that I dispute  
21 this account."

22 MR. SAULS: Mr. Kind, she just answered this  
23 question.

24 MR. KIND: She didn't.

25 MR. SAULS: She told you what was needed to



1 get the consumer statement for the fourth time,  
2 Mr. Kind. She's stated what is needed to be said.  
3 Please, let's move on.

4 MR. KIND: I will not move on. You can ask  
5 her to not respond, then I'll move on, but I think I'm  
6 entitled to an answer. I'll ask it one more time.

7 Q. The consumer says "please include a statement  
8 that I dispute this account"; is that included in a  
9 request that TransUnion would normally honor?

10 MR. SAULS: Same objection, vague, calls for  
11 speculation, argumentative, asked and answered.

12 THE WITNESS: And again, the consumer would  
13 have to specify or make it clear that they want the  
14 statement added to their credit file.

15 BY MR. KIND:

16 Q. Okay, so is that considered clear enough or  
17 not?

18 MR. SAULS: Objection, vague, calls for  
19 speculation, asked and answered, argumentative.

20 BY MR. KIND:

21 Q. You can answer.

22 A. Okay. They would have to say "please include  
23 this statement on my credit file."

24 Q. Okay. Now we got an answer. So they cannot  
25 say "please include a statement I dispute this

1 account." That's your answer.

2 My question to you is, is there a policy that  
3 says that somewhere, and do you see that in any of the  
4 documents in front of us today? Throughout this  
5 entire Exhibit 2, tell me where to go where I would  
6 see that it says that.

7 MR. SAULS: Objection, compound, vague, asks  
8 for a narrative, beyond the scope of the notice of the  
9 deposition.

10 BY MR. KIND:

11 Q. You can answer.

12 A. Okay. So in the investigation -- when we  
13 send the investigation results, we do notify the  
14 consumer that they can add a 100-word statement to  
15 their report and it gives an explanation of what that  
16 entails.

17 Q. Uh-huh. And what I'm -- I know what it says  
18 here. What I'm asking you is, where does it say what  
19 you just said? Which is that if they say "please  
20 include a statement that I dispute this account," you  
21 said that that is not something that TransUnion would  
22 honor. So where is this over here?

23 MR. SAULS: Objection, misstates prior  
24 testimony, calls for speculation, asked and answered.

25 BY MR. KIND:

1 Q. You can answer.

2 A. I did not say that's not something that  
3 TransUnion would honor. I said they would have to  
4 specify that they want the statement added to their  
5 file.

6 MR. SAULS: Mr. Kind, can you it blow up? I  
7 can't see the document here. Are you looking at the  
8 document that says "Add a 100-word statement to your  
9 report"?

10 MR. KIND: Yes.

11 MR. SAULS: All right. Looks like it's  
12 cutting the right portion off. Can you not make the  
13 whole graphic bigger?

14 MR. KIND: Is that better?

15 MR. SAULS: No, it's about the same. Let me  
16 just get closer. I'm sorry; what is the Bates number  
17 on this one?

18 MR. KIND: TU 90.

19 MR. SAULS: I can't keep the Bates numbers  
20 straight; you're not mentioning them as you flip to  
21 documents. I think I see what you're looking at where  
22 it explains the 100-word statement.

23 MR. KIND: We haven't flipped on any  
24 documents. We have been on this for some time.

25 Q. I understand what you're saying, but I have

1 to clarify it. My question is basically to tell me if  
2 a specific statement qualifies or does not qualify or  
3 if it's clear enough or not clear.

4 I understand you're saying, so long as it's  
5 clear enough, that's good. But I think I'm entitled  
6 to ask you if a specific statement is clear enough or  
7 not. Okay?

8 So where on this document does it say what  
9 you are saying? Which is that it has to have specific  
10 language and that it has to be clear enough. Can you  
11 show me, other than this add a 100-word statement, is  
12 there anywhere else where it says that?

13 A. I would say this is where it says that. It  
14 says if you want to add a 100-word statement to your  
15 report. So when a consumer writes in to us, they  
16 would say "I want to add a statement to my report."

17 Q. Okay. Back up to TU 89. In this section  
18 here, if -- sometimes it would say something like  
19 "consumer disputed this"; would that be the statement,  
20 or is that something else that would be added in here?

21 MR. SAULS: Objection, compound, ambiguous,  
22 calls for speculation.

23 THE WITNESS: Are we still talking about the  
24 100-word statement?

25 BY MR. KIND:

1 Q. No. You answered that already.

2 A. Oh.

3 Q. That's down over here on TU 90. And when you  
4 said there was nothing else other than that -- back up  
5 to TU 89. Is there somewhere where NAF would be able  
6 to say that this is a disputed account, not the  
7 100-word statement, but specific to this account?

8 MR. SAULS: Objection, previously asked and  
9 answered.

10 THE WITNESS: Yes, they can add that the  
11 account is in dispute.

12 BY MR. KIND:

13 Q. Okay. And TransUnion can also add that  
14 sometimes, that it's in dispute?

15 MR. SAULS: Same objection.

16 THE WITNESS: That -- that comment that the  
17 account is in dispute comes directly from the data  
18 furnisher.

19 BY MR. KIND:

20 Q. Okay. And the 100-word statement is  
21 separate, it's not related to a specific account, it  
22 would just be on the credit report; is that right?

23 MR. SAULS: Objection, asked and answered.

24 THE WITNESS: I think I said before that it  
25 can be related to a specific account if the consumer

1 includes that account in their statement.

2 BY MR. KIND:

3 Q. Okay. So now we're on TU 96. This is --  
4 down at the bottom, it's upside down, but it has one  
5 of those DR numbers. So can you verify that this is a  
6 dispute letter that TransUnion received?

7 A. Yes.

8 Q. We're on TU 97. Do you see the highlighted  
9 portion that says, "Please include a statement on my  
10 credit report stating that I dispute the above  
11 information"? Do you see that?

12 A. Yes.

13 Q. Is it your position that that is considered a  
14 request for a 100-word statement or for any statement,  
15 or is it your position that that's not a request to  
16 include a statement that he disputes his account?

17 MR. SAULS: Objection, vague, compound.

18 THE WITNESS: In my opinion, that's not a  
19 statement, because he doesn't specify what he wants us  
20 to add.

21 BY MR. KIND:

22 Q. What about the part where he says "Please  
23 include a statement" -- dot dot dot -- "that I dispute  
24 the above information"?

25 MR. SAULS: Objection -- sorry, go ahead.

1 THE WITNESS: Okay.

2 MR. SAULS: I'm sorry, Mr. Kind, were you  
3 finished with your question?

4 MR. KIND: Yes.

5 MR. SAULS: Sorry. Objection, calls for  
6 speculation, previously asked and answered, and vague.

7 THE WITNESS: And again, he doesn't specify  
8 what he wants to add.

9 BY MR. KIND:

10 Q. So your position, then, is that TransUnion  
11 not including the statement in this case was not an  
12 oversight, rather that it was following its procedures  
13 and it was the correct thing to do according to  
14 TransUnion procedures; is that correct?

15 A. Yes.

16 Q. And it has included the June 10 copy. And  
17 again you see on TU 99, again, "Please include a  
18 statement on my credit report stating that I dispute  
19 the above information." And the question that I asked  
20 before, you would have the same responses, correct?

21 A. Correct.

22 Q. Okay. All right, we're on TU 117. Can you  
23 tell me what this is?

24 MR. SAULS: Objection, calls for narrative.

25 THE WITNESS: That's the internal disclosure

1 that was pulled on August 22nd, 2019.

2 BY MR. KIND:

3 Q. And then on TU 120, do you see a section  
4 called "Adverse Accounts"?

5 A. Yes.

6 Q. How many adverse accounts are appearing on  
7 the plaintiff's credit report on this date?

8 A. One.

9 Q. And that's the New American Funding account,  
10 correct?

11 A. Yes.

12 Q. And it's adverse because of that February  
13 2018 late notation, correct?

14 A. Yes.

15 Q. Are there any other adverse notations on this  
16 account?

17 A. Can you blow it up a little bit?

18 Q. So the question is, other than February 2018,  
19 are there any other adverse notations on this account?

20 MR. SAULS: Objection, beyond the scope of  
21 the notice of the deposition.

22 THE WITNESS: So I would say where it says  
23 maximum delinquency is 30 days in February 2018,  
24 there's another indication.

25 BY MR. KIND:



1 Q. Okay, anything other than February 2018?

2 A. No.

3 Q. All right. We're on TU 130. Could you tell  
4 me what this document is?

5 A. Yes, that's the cover page for a letter we  
6 sent.

7 Q. And this is similar to the letter that was  
8 sent after the June 28th, 2019 dispute; is that right?

9 A. That's correct.

10 Q. All right. Now we're on TU 133. What is  
11 this?

12 A. That's an ACDV.

13 Q. The general questions that I asked about the  
14 other ACDV, the general fields about what's what, your  
15 responses would be the same, correct?

16 MR. SAULS: Objection, vague, compound,  
17 beyond the scope of the notice of the deposition, asks  
18 for a narrative.

19 THE WITNESS: Can you repeat that, please.

20 BY MR. KIND:

21 Q. Yeah. So, for example, before I asked you  
22 what is this date on the top right. So your answer  
23 would be the same, right? Although the information  
24 would be different, the date would be different;  
25 payment pattern, I don't want to go through the whole

1 prepared about the plaintiff in this case?

2 A. Yes.

3 Q. And I'm going to scroll down. And this is  
4 Bates -- it doesn't have Bates numbers. So I'm going  
5 to scroll down to Page 8 of 9 of -- which is  
6 Exhibit 8. And it has an inquiries section over here.  
7 Can you confirm that "inquiries" mean that TransUnion  
8 sent a credit report to a third party?

9 MR. SAULS: Objection, beyond the scope of  
10 the notice of the deposition.

11 THE WITNESS: Yes.

12 BY MR. KIND:

13 Q. Okay. And then when it says "Requested  
14 On" -- there's a bunch of them, but all of those dates  
15 that it says "Requested On" specific date, then that's  
16 the date that TransUnion sent it to the company that's  
17 related to that request, right?

18 MR. SAULS: Objection, beyond the scope of  
19 the notice of the deposition.

20 THE WITNESS: Yes.

21 BY MR. KIND:

22 Q. So just as an example, it says here  
23 "loanDepot," and then there is a date July 29th. That  
24 would be that on or about July 29th, TransUnion sent a  
25 credit report to loanDepot, correct?

1 MR. SAULS: Objection, beyond the scope of  
2 the notice of the deposition.

3 THE WITNESS: Yes.

4 BY MR. KIND:

5 Q. We reviewed the ACDVs in this case. Are  
6 there any -- did TransUnion receive any documents from  
7 New American Funding at the time of these disputes and  
8 at the time of receiving the responses to the ACDVs?

9 MR. SAULS: Objection, vague.

10 THE WITNESS: I really can't say, because  
11 data services sent some automated transmissions. I  
12 don't know if they sent that to TransUnion.

13 BY MR. KIND:

14 Q. You're saying "automated transmissions." At  
15 the time of responding to these ACDVs, they're able to  
16 send documents?

17 MR. SAULS: Objection, assumes facts not in  
18 evidence, and ambiguous.

19 THE WITNESS: Our furnishers can send  
20 automated transmissions at any time before and after  
21 ACDVs.

22 BY MR. KIND:

23 Q. Are you aware that -- are you aware of --  
24 from reviewing all of these documents and everything  
25 we have been doing, are you aware of any documents

1 that NAF sent to TransUnion together with the ACDV  
2 response?

3 MR. SAULS: Objection, ambiguous.

4 THE WITNESS: No, not based on the documents  
5 we looked at today.

6 BY MR. KIND:

7 Q. Okay. We discussed before that TransUnion  
8 says that the reporting is accurate because he was in  
9 fact 30 days late regardless of his claim that he  
10 tried to make the payment. Is that right?

11 MR. SAULS: Objection to the extent it  
12 misstates previous testimony.

13 THE WITNESS: I think TransUnion's position  
14 is that Mr. Tuttobene admits that he was 30 days late  
15 and NAF also verifies that Mr. Tuttobene was 30 days  
16 late.

17 BY MR. KIND:

18 Q. Okay. And that's why it's accurate, correct?

19 A. Correct.

20 Q. Okay. And the comments about him trying to  
21 make the payment, that does not change the fact that  
22 it's accurate that he was 30 days late, correct?

23 MR. SAULS: Objection, vague.

24 THE WITNESS: I would have to say that is  
25 correct. He admitted he was 30 days late and the data

1 MR. SAULS: Objection, compound, and vague  
2 and ambiguous.

3 THE WITNESS: I don't think TransUnion  
4 considered him late in this situation. I believe that  
5 NAF considered him late and Mr. Tuttobene also  
6 considered himself late.

7 BY MR. KIND:

8 Q. Understood. Let me say it a different way.  
9 So the reason that Mr. Tuttobene gave for being late  
10 doesn't change TransUnion's reporting the account as  
11 30 days past due, correct?

12 MR. SAULS: Objection, asked and answered.

13 BY MR. KIND:

14 Q. Correct?

15 A. So again, the reason he was late is between  
16 him and NAF. So he said he was late and NAF reported  
17 that he was late, so to me there is no question about  
18 the late payment.

19 Q. Does TransUnion consider the reason why  
20 someone is late in other contexts?

21 MR. SAULS: Objection, vague, it calls for  
22 speculation, beyond the scope of the notice of the  
23 deposition.

24 THE WITNESS: Well, TransUnion's position is  
25 to report accurate and complete information. In

1 Mr. Tuttobene's case, he did not provide TransUnion  
2 any information or documentation that we could have  
3 used to perform maintenance on his account. We sent  
4 that ACDV --

5 BY MR. KIND:

6 Q. Objection, nonresponsive. Let's just stick  
7 to the question.

8 So the reason why he was late is not  
9 something that TransUnion applies when deciding if  
10 it's accurate to report 30 days or to remove that 30  
11 days, correct?

12 MR. SAULS: I'm going to object, and I'm  
13 going to ask my client not to answer you. You cut her  
14 off and you stopped her answer. She's given you her  
15 answer to the question, whether you like it or not.  
16 And I think the answer that she previously gave is  
17 sufficient.

18 And you can object to nonresponsive, but I  
19 think in that sequence my client now stopped her  
20 answer, now you're asking her the question again  
21 attempting to fish for a different answer. So I would  
22 ask her to not respond unless you want to ask a  
23 different question or at least allow her to finish the  
24 answer that she was giving before you cut her off.

25 BY MR. KIND:

1 Q. If TransUnion -- if plaintiff tried to make  
2 the payment, but it was rejected because he had the  
3 wrong account number, TransUnion's policy is not to  
4 update his credit report to remove the 30 days,  
5 correct?

6 MR. SAULS: Objection, calls for speculation,  
7 and vague, asked and answered.

8 THE WITNESS: I would have to disagree.

9 BY MR. KIND:

10 Q. Isn't that exact -- why do you disagree?

11 MR. SAULS: Same objections.

12 THE WITNESS: Because if there was  
13 documentation to show that Mr. Tuttobene's dispute, we  
14 would have updated the account based on his dispute,  
15 we would have updated his account internally.

16 BY MR. KIND:

17 Q. But didn't you say before that the way that  
18 they were reported was correct, because he was in fact  
19 30 days late?

20 A. Yes, that is correct.

21 Q. Okay. So the fact that he put the wrong  
22 account number and he tried, that doesn't change the  
23 fact that what TransUnion is reporting correctly that  
24 he was 30 days late, correct?

25 MR. SAULS: Objection, ambiguous, compound,

1 asked and answered.

2 THE WITNESS: So, again, Mr. Tuttobene  
3 admitted that he was 30 days late, data furnisher  
4 verified that he was 30 days late. We didn't receive  
5 any other indication that he was not 30 days late or  
6 any other documentation so...

7 BY MR. KIND:

8 Q. What about his reasoning for being late; does  
9 that not change the result?

10 MR. SAULS: Objection, asked and answered,  
11 ambiguous, and leading, compound.

12 THE WITNESS: I would say in this case the  
13 reason for him being late would be between him and the  
14 data furnisher.

15 BY MR. KIND:

16 Q. What happens if the reason for him being late  
17 was because NAF rejected his payment because they --  
18 because of his religion? They said, we're not  
19 accepting your payment because of your religion.  
20 Would that also be between him and the data furnisher?

21 MR. SAULS: I'm going to object and I'm going  
22 to -- you have five minutes left in your cross right  
23 now. Okay? So I'm going to allow my client to answer  
24 this question, but you have five minutes of cross as  
25 we sit here today. So I'm going to object to the



1 relevancy of the question; I'm going to say asked and  
2 answered, compound, and ambiguous.

3 You can answer, Ms. Kimp.

4 THE WITNESS: Okay. Well, I'm not an  
5 attorney, but if his payment was rejected for  
6 religion, I would think that would fall under another  
7 type of legal -- legal problem.

8 BY MR. KIND:

9 Q. Do you remember seeing a policy that says  
10 that the reason that -- if they provide a reason for  
11 being late, then we should look at what they say. And  
12 if it's because of religion, then we update, but if  
13 it's because he got the wrong account number, we  
14 don't? Do you remember seeing a policy that says  
15 that?

16 MR. SAULS: Objection, assumes facts not in  
17 evidence, misstates previous testimony, irrelevant,  
18 compound, and ambiguous, beyond the scope of the  
19 notice of the deposition.

20 BY MR. KIND:

21 Q. You can answer.

22 A. No, I don't remember seeing that.

23 Q. Yeah. And to go back to what you said, if  
24 the reason they rejected it is because of religion,  
25 let's say because of his race, in that case you would

1 agree that maybe there's some legal -- there's  
2 something else. Do you agree with that?

3 MR. SAULS: Same objection.

4 THE WITNESS: Yes, I would agree that that's  
5 something else.

6 BY MR. KIND:

7 Q. Okay. And in that case, the 30 days probably  
8 should be removed, correct?

9 MR. SAULS: Objection, ambiguous, and vague,  
10 and beyond the scope of the notice of the deposition,  
11 calls for speculation.

12 BY MR. KIND:

13 Q. Do you agree with that?

14 A. Yes, if they're reporting 30 days late only  
15 because of his religion and nothing else, then I would  
16 agree that that would be incorrect.

17 MR. SAULS: Mr. Kind, you've got about three  
18 minutes of cross-examination, do you want continue  
19 your direct. Excuse me, three minutes of redirect.  
20 Do you want to continue your direct?

21 MR. KIND: Hold on a second.

22 Q. And in that case of religion or race, the  
23 reason why that should be updated is because the  
24 reason why someone misses a payment is relevant to  
25 whether it's accurate or not, do you agree?

1 MR. SAULS: Objection, calls for speculation,  
2 leading, ambiguous, and beyond the scope of the notice  
3 of the deposition, and compound.

4 THE WITNESS: Can you repeat the question?

5 BY MR. KIND:

6 Q. Yeah. So you said that if it was because of  
7 race or religion, in that case it should be updated.  
8 So I'm basically asking you if you agree that the  
9 reason for that is because the justification for being  
10 late is important to the question of being accurate or  
11 not.

12 MR. SAULS: Objection, calls for speculation,  
13 asked and answered, leading, irrelevant, and beyond  
14 the scope of the notice of the deposition.

15 THE WITNESS: Well, I would say, in a case of  
16 race, religion, sex, I think that's something totally  
17 different than what we're dealing with right now with  
18 Mr. Tuttobene's dispute.

19 MR. KIND: Okay. I have no further questions  
20 for right now. But for the record, I went 20 minutes  
21 exactly and I still have five minutes for rebuttal.

22 MR. SAULS: We'll go off the record. I  
23 disagree with that. We'll go off the record.

24 MR. KIND: I was timing. I was 20 minutes.

25 MR. SAULS: Okay. We started this at 12:00

1 p.m. Central, it's now 8:30 p.m. Central; we've had  
2 approximately an hour and a half of breaks.

3 I will stand on my reasoning, Mr. Kind. You  
4 can file the appropriate motion. We're done. We're  
5 going to take a ten-minute break, and we will be back  
6 in ten minutes. We can go off the record.

7 MR. KIND: Wait, before we go off the record,  
8 are you saying that I'm not going to be able to take  
9 the five minutes that we agreed to?

10 MR. SAULS: Let's take it up when we get  
11 back, please, at this point. We're talking about  
12 religion and if religion would keep TransUnion from  
13 disputing an account. I need to get off the record  
14 because I need to get my client done. We can pick it  
15 up when we come back on the record, sir.

16 MR. KIND: Sure. And I'll have five minutes  
17 of rebuttal.

18 MR. SAULS: We are off the record. Thank  
19 you.

20 (Recess taken.)

21 EXAMINATION

22 BY MR. SAULS:

23 Q. We are back on the record. This is  
24 TransUnion's cross-examination. And Ms. Kimp, you  
25 realize that at this point that you are still under

REPORTER'S DECLARATION

STATE OF NEVADA            )  
  )    s:  
COUNTY OF CLARK            )

I, Michelle C. Johnson, CCR 771, declare as follows:

That I reported virtually the taking of the deposition of the witness, NIKISHA KIMP, commencing on Thursday, August 27, 2020 at 10:05 a.m.

That prior to being examined, the witness was by me virtually duly sworn to testify to the truth, the whole truth, and nothing but the truth.

That I simultaneously transcribed my said shorthand notes into typewriting via computer-aided transcription, and that the typewritten transcript of said deposition is a complete, true, and accurate transcription of said shorthand notes taken down at said time. That prior to completion of the proceedings, review of the transcript pursuant to FRCP 30(e) was not requested.

I further declare that I am not a relative or employee of any party involved in said action, nor a person financially interested in the action.

Dated: September 14, 2020.



Michelle C. Johnson, RPR-CRR, CCR No. 771

VERITEXT LEGAL SOLUTIONS  
COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

Veritext Legal Solutions is committed to maintaining the confidentiality of client and witness information, in accordance with the regulations promulgated under the Health Insurance Portability and Accountability Act (HIPAA), as amended with respect to protected health information and the Gramm-Leach-Bliley Act, as amended, with respect to Personally Identifiable Information (PII). Physical transcripts and exhibits are managed under strict facility and personnel access controls. Electronic files of documents are stored in encrypted form and are transmitted in an encrypted fashion to authenticated parties who are permitted to access the material. Our data is hosted in a Tier 4 SSAE 16 certified facility.

Veritext Legal Solutions complies with all federal and State regulations with respect to the provision of court reporting services, and maintains its neutrality and independence regardless of relationship or the financial outcome of any litigation. Veritext requires adherence to the foregoing professional and ethical standards from all of its subcontractors in their independent contractor agreements.

Inquiries about Veritext Legal Solutions' confidentiality and security policies and practices should be directed to Veritext's Client Services Associates indicated on the cover of this document or at [www.veritext.com](http://www.veritext.com).